

REMARKS

Claims 1-13 are pending and have been rejected. For the reasons set forth below, these rejections are respectfully traversed. Claims 14-28 have been added to further claim applicant's invention. The specification has been amended to correct two typographical errors. It is respectfully submitted that these amendments and newly added claims are supported by the specification, claims, abstract and drawings as originally filed and that no new matter has been added.

Claim 1

The Examiner rejected claims 1 as being unpatentable over U.S. Patent No. 6,883,188 to Semmens in view of U.S. Patent No. 6,880,198 to Hazard. While the Examiner concedes that Semmens does not teach "the step of scraping a trowel to remove particles of an exterior surface of the concrete to thereby form voids," the Examiner contends that this teaching is found in Hazard. This rejection is respectfully traversed. It is respectfully submitted that this rejection does not give patentable weight to the entire language of the claim and that it misapprehends the actual teachings of Hazard.

Specifically, the cited segments of Hazard discuss well-known, prior-art methods of applying "joint compound" to a corner formed by two sheets of drywall. (Col. 3, lines 1-11.) As is well known in this art, a layer of joint compound is applied and smoothed with a "taping knife." (Col. 3, lines 15-17.) The joint compound is left to dry overnight. It will shrink and if a relatively thick layer is applied, this shrinkage will cause surface concavities or cracks. (Col. 3, lines 23-26.) To form a smooth surface, another layer of joint compound is applied and these steps are repeated until the surface is smooth and even. Thus, any cracks or voids formed in the surface taught by Hazard are the result of the drying process and not the result of "scraping a rough trowel" as expressly recited by claim 1.

In addition, Hazard expressly teaches the use of a "taping knife" which has a smooth, not a rough, surface. The subject rejection simply does not address this express element of claim 1.

Moreover, and contrary to the subject rejection, adding sand particles of at least 1 mm to Hazard's joint compound would contradict the teachings of this reference. Hazard expressly teaches that sand or dust "must be removed" because they would cause the blade of the taping

knife to "chatter[]" as it is drawn along the surface. (Col. 4, lines 5-14.) This chatter causes irregularities which necessitate additional work to fill. (Col. 4, lines 14-16.) Because Hazard expressly teaches that sand or dust "must be removed" it is respectfully submitted that it teaches away from adding grains of sand having a diameter of approximately 1 mm as expressly recited by claim 1 and that it likewise teaches away from the proposed combination with Semmens.

For these reasons, it is respectfully submitted that the subject rejection fails to establish a *prima facie* case of obviousness and that the claim stands in condition for allowance.

Claims 2-4

Claim 2 depends from claim 1 and further recites that the sand includes "approximately 5% by weight of particles having a diameter of approximately 1 mm or greater." Claim 4 depends from claim 1 and further recites the inclusion of 15.1% of those larger particles. Since Hazard expressly teaches that such particles "must be removed" it teaches away from the inclusion of approximately 5% and certainly teaches away from the inclusion of as much as 15.1% of such particles. Claim 3 depends from claim 2 and recites

further elements. Accordingly, it is respectfully submitted that these claims stand in condition for allowance.

Claim 5

Claim 5 depends from claim 1 and further recites the inclusion of 2 mm sand particles. Again, since Hazard teaches that such particles "must be removed" it certainly teaches away from the inclusion of these even larger particles.

Claims 6 & 7

Claims 6 & 7 depend from claim 1 and recite additional elements. Accordingly, it is respectfully submitted that they stand in condition for allowance.

Claim 8

Claim 8 recites the inclusion of "coarse particles approximately 1 mm in diameter" and "scraping the resulting composition with a rough trowel ... wherein at least a portion of the coarse particles ... are removed to leave divots of matching size in the even surface." For the reasons set forth above with respect to claim 1, it is

respectfully submitted that Hazard and Semmens teach away from these express elements.

In addition, claim 8 expressly recites that the further step of hardening sufficient "to prevent reformation of the resulting composition" "before the step of scraping." In rejecting this element, the Examiner contends that "both Semmens and Hazard teach[] the step of allowing the concrete to harden." (Page 3.) This rejection does not address the actual language of the claim and, in fact, the citations relied upon by the Examiner teach away from this express element of claim 8. Specifically, the Examiner relies upon Hazard for teaching "the step of scraping a trowel." As is well known in the art of applying joint compound and as explained by Hazard, the joint compound hardens after the trowel is used to smooth the surface. Because claim 8 expressly recites hardening before scraping with a rough trowel, it is respectfully submitted that Hazard teaches away from the claimed invention.

Claim 9

Claim 9 depends from claim 8 and further recites the inclusion of as much as 20% of particles having a 1 mm diameter, as much as 15% of particles having a 2 mm

diameter and as much as 5% of particles having a 4 mm diameter. Since Hazard expressly teaches that such particles "must be removed," it teaches away from the invention set forth in this claim.

Claims 10-13

Claims 10-13 depend from claim 8 and recite additional elements. Accordingly, it is respectfully submitted that these claims stand in condition for allowance.

Newly Added Claims

Claims 14-28 have been added to further claim applicant's invention. Like the original claims, these newly added claims recite elements that distinguish the invention from the teachings of the prior art relied upon by the Examiner. It is respectfully submitted that these claims stand in condition for allowance.

Conclusion

For the reasons set forth above, it is respectfully submitted that the application stands in condition for allowance. The Examiner's further consideration and favorable action are respectfully requested.

Respectfully Submitted,

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